



American Society of Access Professionals
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Privacy Compliance & Monitoring
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Privacy & Transparency Law

At DHS, the Privacy Office's mission is to protect individuals by embedding and enforcing privacy protections and transparency in all DHS activities. The office builds privacy into departmental programs and conducts its activities through and pursuant to the following laws:

- Privacy Act of 1974 (5 U.S.C. § 552a)
- E-government Act of 2002 (Public Law 107-347)
- Freedom of Information Act of 1966 (5 U.S.C. § 552)

Specific to DHS:

- Homeland Security Act of 2002 (6 U.S.C. § 142)
- Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53)



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DHS Chief Privacy Officer Authorities

The responsibilities of the DHS Chief Privacy Officer are set forth in Section 222 of the Homeland Security Act of 2002 and include:

- Ensuring that privacy considerations and protections are comprehensively integrated into all DHS programs, policies, and procedures
- Ensuring that DHS' use of technology sustains, and does not erode, privacy
- Assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974
- In 2007, authorities added with the power to issue subpoenas to non-federal entities and the ability to administer oaths, affirmations and affidavits necessary to conduct privacy investigations and reporting.



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Privacy Compliance Lifecycle



Privacy Compliance Artifacts

- Privacy Threshold Analysis (PTA)
- Privacy Impact Assessment (PIA)
- System of Records Notice (SORN)
- Privacy Compliance Review (PCR)

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Privacy Compliance Reviews at DHS

- PCRs are a *constructive* mechanism to:
 - Assess implementation of protections described in privacy compliance documentation
 - Ensure that a program is operating consistent with privacy law and policy
 - Identify areas for improvement
 - Correct course if necessary
- PCRS are *collaborative* rather than adversarial
 - Independent internal review leads to
 - improved accountability,
 - increased ethical and professional practices,
 - effective risk management and
 - improved quality of output

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Privacy Compliance Reviews at DHS

- Unique position of DHS Privacy Office:
 - Both an advisor and an oversight body for the Department's privacy sensitive programs and systems
 - PCR is designed to improve a program's ability to comply with assurances made in privacy compliance documentation and elsewhere
- PCRs can be initiated:
 - At the discretion of the DHS Chief Privacy Officer
 - As required by an Agreement
 - Under the terms of a Privacy Impact Assessment

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PCR Benefits

- Constructive. Collaborative. Transparent.
 - Assure that technologies sustain and do not erode privacy protections
 - Corroborate assurances made in PIA, SORN and/or ISAA
 - Identify areas for improvement and correct course if necessary
- Your privacy documents are promises that you need to demonstrate your program is living up to!
- Improve program & increase transparency

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How do you determine which programs get a PCR?

- Planned as part of the development of a new program or system for those that present unique privacy concerns
- Controversial issues that may heighten public scrutiny
- Fallout from an incident or breach

✓ Consider staffing resources

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PCR Process – Step 1

Collect & Review Available Background Info

- Background sources:
 - PIA/SORN
 - Memoranda of Understanding (MOUs) and Information Sharing Access Agreements (ISAAs)
 - OIG and GAO reports
- The statements in the **PIA and SORN** will serve as the **baseline** for assessing a program's compliance.

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PCR Process – Step 2

Formulate Review Objectives

- First & foremost: assess a program's compliance with current privacy documentation and applicable DHS policies.
- Consider other objectives from:
 - MOUs and Agreements
 - Previous OIG or GAO reports
 - Other privacy-related concerns voiced from the public or other medium

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PCR Process – Step 3

Notify Program of Review

- *Cooperation and contributions from program and leadership is critical!*
- Notify Component Privacy Officer/Privacy Point of Contact and Program Manager of intent to conduct a review of the program.
 - Include **clearly stated review objectives**.

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PCR Process – Step 4

Formulate Review Questions & Document Requests

- Develop a set of **open-ended** questions to the specific program/IT system based on existing compliance documentation.
- Attempt to identify other review needs in advance:
 - Document requests: standard operating procedures, policies, and system audit logs
 - Varies depending on the scope of the review.

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PCR Process – Step 5

Conduct Interviews & Obtain Supporting Docs

- Primary mechanisms for compliance reviews:
 - Interviews with program personnel and
 - Document reviews
- Gain understanding
- Reveal additional documents and/or SMEs to review
- Due diligence!

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PCR Process – Step 6

Analyze Documentation & Interviews and Draft Preliminary Findings

- Evaluate against statements made in privacy compliance documentation.
- Document review may also include activities such as review of audit logs to ensure uses of information are appropriate.
- Record of preliminary findings begins to develop.

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PCR Process – Step 7

Review and Confirm Findings

- Notify the program of preliminary findings and recommendations and confirm key facts.
 - Share a draft product with the reviewed program for their review and comment.
- Determine the appropriate format and content for documenting the results of the PCR.
- Consider recommendations that should be communicated to the program and/or to the public.

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PCR Process – Step 8

Prepare and Issue Product

- Consider comments from program and the affected Component Privacy Officer or Privacy Point of Contact.
- PCRs may result in a public report or an internal memoranda to the program principal signed by the Chief Privacy Officer.
 - If public, be transparent about findings but sensitive to the overall goal of improving program practices.

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Potential Outcomes and Benefits

- Recommendations to the program resulting in improvements
- Updates to privacy documentation
- Informal discussions about lessons learned
- Formal report either internal or publicly available
- Heightened awareness by all participants about privacy
- Early issue identification and remediation

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PCR is complete. Now what?

- Ownership!
 - impacted Component Privacy Officer and Program Manager should facilitate implementation of the PCR recommendations
- Future reviews v. self audits
- Accountability and sustainability

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DHS PCRs Online

Privacy

Compliance

FOIA

Oversight

Policy

Protecting Your Privacy

Reports

Training

Privacy Oversight

The Privacy Office serves as both an advisor and oversight body for the Department's privacy-sensitive programs and systems.

✓ Close all ✓ Open all

Privacy Compliance Reviews


The Privacy Compliance Review (PCR) is a collaborative effort to help improve a program's ability to comply with existing privacy compliance documentation, including Privacy Impact Assessments (PIA), System of Records Notices (SORN), formal agreements such as Memoranda of Understanding or Memoranda of Agreements, or at the Chief Privacy Officer's discretion. A PCR may result in a public report or internal recommendations, depending upon the sensitivity of the program under review.

- [Standard Operating Procedure for Privacy Compliance Reviews](#)

The Privacy Office tracks implementation of PCR recommendations based on supporting evidence provided by the Component Privacy Office and/or Program reviewed.

- [List of Outstanding PCR Recommendations](#)

<https://www.dhs.gov/investigations-reviews>



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DHS PCRs Online

PCRs in alphabetical order:

- [Analytical Framework for Intelligence](#)
 - **February 2019 Update:** CBP satisfactorily implemented all PCR recommendations.
- [Countering Violent Extremism Grant Program](#)
 - **July 2020 Update:** FEMA and the Office for Targeted Violence and Terrorism Prevention satisfactorily implemented all PCR recommendations.
- [DHS Use of Social Media for Communications and Outreach](#)
- [EINSTEIN](#)
 - **August 2014 Update:** NPPD satisfactorily implemented all PCR recommendations.
- [Electronic System for Travel Authorization](#)
- [Enhanced Cybersecurity Services Program](#)
 - **July 2016 Update:** NPPD satisfactorily implemented all PCR recommendations.
- [FEMA's Information Sharing Practices](#)
- [ICE Pattern Analysis and Information Collection Law Enforcement Information Sharing Service](#)
- [Media Monitoring Initiative](#)
- [Office of the Chief Human Capital Officer Privacy Practices](#)
 - **April 2020 Update:** OCHCO satisfactorily implemented all PCR recommendations.
- [Passenger Name Records Reviews](#)
- [Science and Technology Directorate Privacy Practices](#)
- [Section 1367 Privacy Incidents](#)
- [Southwest Border Pedestrian Exit Field Test](#)
 - **October 2017 Update:** CBP satisfactorily implemented all PCR recommendations.
- [USCIS Customer Profile Management Service & National Appointment Scheduling System](#)
 - **October 2020 Update:** USCIS satisfactorily implemented all PCR recommendations.

<https://www.dhs.gov/investigations-reviews>




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Questions? More information about PCRs?

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